

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

CRIMINAL #04-10288-RWZ

UNITED STATES

v.

JOSEPH ALLEN

AFFIDAVIT OF JAMES L. SULTAN

James L. Sultan, being duly sworn according to law, hereby says and deposes as follows:

1. I am a member in good standing of this Court and counsel to defendant Joseph Allen in the above-captioned criminal case. I make this affidavit based upon personal knowledge.
2. On January 12, 2005, I spoke by telephone with Elliot Weinstein, counsel for co-defendant Joseph Baldassano. Mr. Weinstein told me that he was present during Mr. Baldassano's proffer session with the government on August 31, 2004. He told me that during the course of that proffer session, the government agents and the prosecutor pressed Baldassano about Allen's involvement in Baldassano's drug transaction with an undercover agent on June 7, 2004. Mr. Baldassano repeatedly denied that Allen was involved in that transaction.
3. I received in discovery the handwritten notes of DEA Special Agent Steven Story and Gloucester Detective Sean Connors regarding the August 31, 2004 proffer

session. There is nothing in either set of notes reflecting Baldassano's statements respecting Allen's involvement or lack of involvement in the June 7, 2004 drug deal. Both of these law enforcement agents apparently chose to omit this exculpatory information from their handwritten notes.

4. Based on all of the discovery provided to me by the government, Baldassano's testimony at trial implicating Allen in Baldassano's June 7, 2004 drug deal came as a total shock and surprise to me.

Signed and sworn under the pains and penalties of perjury this 12th day of May, 2006.

Respectfully submitted,

JAMES L. SULTAN

/s/ James L. Sultan

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on May 12, 2006.

/s/ James L. Sultan
James L. Sultan